

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

EDWIN K. SLAUGHTER et al.,

Plaintiffs,

vs.

UPONOR, INC. et al.,

Defendants.

2:08-cv-01223-RCJ-GWF

ORDER

This case arises out of the manufacture, marketing, distribution, and installation of allegedly defective plumbing components, which Plaintiffs allege caused harm, or threaten to cause harm, to their residences. Pending before the Court are Plaintiff's motions for a status conference, to sever claims, to clarify stays, and to enter a casemanagement order and discovery plan and scheduling order. Non-party Centex Homes has moved to intervene for the purpose of opposing the motions.

I. PROCEDURAL HISTORY

Plaintiffs filed a motion to certify the class but withdrew that motion and moved for voluntary dismissal without prejudice. The Court dismissed the case with prejudice under Rule 41. The Court of Appeals reversed and remanded, instructing the Court to determine whether the Plaintiff homeowners complied with the inspection requirements of Nevada Revised Statutes ("NRS") section 40.647(1) and whether Rule 41 or NRS section 40.647(2)(a) applied to a motion to voluntarily dismiss. Plaintiffs filed a renewed motion to dismiss without prejudice, addressing the issues identified by the Court of Appeals. The Court denied the motion to dismiss because

1 although all named Plaintiffs had failed to file Chapter 40 notices before filing the Complaint,
2 making dismissal without prejudice under state law mandatory, and making a Rule 41 analysis
3 moot, it was clear that Plaintiffs would simply refile the case and that it would be removed to this
4 Court again. The Court also noted that named Plaintiffs would withdraw and be replaced by new
5 named Plaintiffs who had complied with Chapter 40's notice requirements. The Judicial Panel
6 on Multidistrict Litigation ("JPML") has denied a motion to transfer parts of the thirteen pending
7 related cases, including the present case, to a multidistrict litigation case in the District of
8 Minnesota: *In Re: Uponor, Inc. F1960 Plumbing Fitting Products Liability Litigation*, MDL-
9 2393 (the "MDL Case").

10 **II. DISCUSSION**

11 First, the Court will grant Centex Homes' motion to intervene for the limited purpose of
12 filing an opposition to the present motions. Second, the Court will grant the motion for a status
13 conference to discuss the consolidation of the thirteen related cases in this District, nine of which
14 are pending before this Court, and some of which have already been consolidated into two
15 smaller groups. Third, the Court will not sever claims against Uponor Defendants at this time,
16 but will discuss the issue at the status conference. Fourth, the Court grants the motion to clarify
17 that the stay in the *Fulton Park, Dakota*, and *Wolinsky* cases, which are consolidated with the
18 present case, expired upon issuance of the Court of Appeals' mandate in the present case,
19 because the stays of those cases were based purely upon the pendency of the appeal in the present
20 case. Fifth, the Court will not enter a case management order or scheduling order at this time.
21 The Court will discuss a case management order at the status conference, and the parties should
22 direct their requests for a scheduling order to the magistrate judge after the Court indicates its
23 intentions concerning a case management order at the status conference.

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CONCLUSION

IT IS HEREBY ORDERED that the Motion to Intervene (ECF No. 600) is GRANTED.

IT IS FURTHER ORDERED that the Motion for Status Conference (ECF No. 582) is GRANTED, the Status Conference is set on MONDAY, JANUARY 7, 2013 at 11:00 A.M., in LAS VEGAS COURTROOM 4B, before Judge Robert C. Jones.

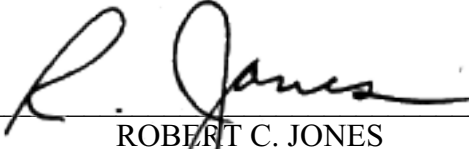
IT IS FURTHER ORDERED that the Motion to Sever (ECF No. 581) is DENIED.

IT IS FURTHER ORDERED that the Motion for Clarification (ECF No. 583) is GRANTED. The stays in the member cases are LIFTED.

IT IS FURTHER ORDERED that the Motion for Case Management (ECF No. 584) is DENIED.

IT IS SO ORDERED.

Dated this 26th day of November, 2012.



ROBERT C. JONES
United States District Judge